

AGENDA

TUSAYAN TOWN COUNCIL MUNICIPAL CODE WORKSHOP

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03
Wednesday, January 8, 2014 at 5:00pm
TUSAYAN TOWN HALL BUILDING
845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a Meeting and Municipal Code workshop open to the public on Wednesday, January 8, 2014 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

TOWN COUNCIL MUNICIPAL CODE WORKSHOP

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

**MAYOR GREG BRYAN
VICE MAYOR AL MONTOYA**

**COUNCILMEMBER BILL FITZGERALD
COUNCILMEMBER JOHN RUETER
COUNCILMEMBER CRAIG SANDERSON**

** One or two Councilmembers may attend by telephone*

3. REVIEW OF MUNICIPAL CODE STATUS

4. DISCUSSION OF DRAFT LANGUAGE FOR THE TUSAYAN MUNICIPAL CODE

Chapter 11 – Offenses (continued)

5. MOTION TO ADJOURN

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this 2nd day of January, 2014, at _____ pm in accordance with the statement filed by the Tusayan Town Council

Signature of person posting the agenda

ITEM NO. 3

Municipal Code Workshops Timeline

January 8

Chapter 11 – Offenses (cont'd)

February 4

Chapter 9 – Business Regulations

March 4

Chapter 2 – Mayor & Council

Chapter 4 – Boards & Committees

Chapter 15 – Manner of Elections

Overflow/Catch Up/Wrap Up



Completed

Chapter 1 – General

Chapter 3 – Administration

Chapter 6 – Animals

Chapter 7 – Building Codes

Chapter 8 – Transaction Privilege Tax

Chapter 13 – Parks & Recreation

Chapter 14 – Employment

ITEM NO. 4

CHAPTER 11

OFFENSES

ARTICLE 11-1

OFFENSES

- 11-1-1 Dangerous Constructions
- 11-1-2 Excavations to be Covered
- 11-1-3 Minors; Curfew
- 11-1-4 Driving or Parking on Another's Property Unlawful
- 11-1-5 Noise (1999-A147)
- 11-1-6 Parks - Alcohol Use
- 11-1-7 Signs and Banners
- 11-1-8 Unsafe Buildings or Structures
- 11-1-9 Weapons
- 11-1-10 911 Emergency Telephone Number System
- 11-1-11 Prohibitions on Vehicle Engine Noise (1999-A147)
- 11-1-12 False Alarms (2006-A332)
- 11-1-13 Sale of Pseudo-ephedrine Products (2005-A312)

SECTION 11-1-1 DANGEROUS CONSTRUCTIONS

It is unlawful for any person to maintain or allow any signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.

SECTION 11-1-2 EXCAVATIONS TO BE COVERED

- A. It is unlawful for any person to make any excavation or dig any hole, drain, or ditch in any highway or thoroughfare in the Town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation at all times.
- B. It is unlawful for any person to maintain a well, cellar, pit, or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering, or protection.

SECTION 11-1-3 MINORS; CURFEW; LIABILITY OF PARENT

- A. It shall be unlawful for any juvenile under the age of eighteen (18) years to be, remain, loiter in, about, or upon any place in the Town away from the dwelling house or usual place of abode of said juvenile, between the hours of 10:00 o'clock P.M. and 5:00 o'clock A.M. of the following day; **provided that the provisions of this section do not apply** to said juvenile when:
 - a) accompanied by his or her parent, guardian, or other adult person having the care, custody or control of said juvenile, or
 - b) the said juvenile is on an emergency errand, or

- c) the said juvenile has been specifically directed to the location or is on reasonable, legitimate and specific business or activity directed or permitted by his parent, guardian or other adult person having the care, custody or supervision of said juvenile. This exception requires that the parent, guardian, or adult have advance knowledge of the whereabouts of the juvenile, and have given consent, and does not apply if the parent, guardian, or adult, when told of the location of the juvenile, does not object.
- B. It is unlawful for the parent or guardian of a person under the age of eighteen years to permit such minor to be away from the minor's dwelling house or usual place of abode in violation of Section A once the parent or guardian has been notified of the violation and permits repeated violations.
- C. Curfew is extended until 12:30 a.m. on Friday and Saturday.

SECTION 11-1-4 LOITERING

- A. It is unlawful for any person to loiter, drive, or park upon the property during those hours when the person legally entitled to the possession of said property is not present, or if the property is a business, for any purpose other than the normal conduct of trade with that business, or if the property is that of a government agency, for any purpose other than the normal conduct of business with that government agency, without having in his or her possession the written permission of the owner of the property or the person entitled to immediate possession thereof, or the authorized agent of either.
- B. The written permission shall specify the period for which permission is granted, and shall set forth the name of the grantee shall be signed by the grantor, shall state grantor's interest in the property and, if the grantor is not the owner thereof, the owner's name.
- C. Any person loitering, driving, or parking a vehicle described in this section on property shall, upon request of any peace officer, display the written permission issued under the terms of this article.
- D. It is the intent of this section to prevent the unauthorized use of vacant lots, parking lots, or other property, privately or publicly owned areas by persons for unauthorized or illegal purposes which could create a public nuisance or interfere with the comfortable enjoyment of life or property by the entire community or neighborhood or by a considerable number of persons.
- E. No person charged with violating this section shall be convicted and such charge against him or her shall be dismissed if he or she subsequently produces in court the aforesaid written permission.

SECTION 11-1-5 NOISE

- A. It is hereby declared to be public nuisance, and it is unlawful for any person, to play or permit to be played any music or musical instruments whether played by individuals, orchestra, radio phonograph, music box or other mechanical device or means, any shop operations or other activity in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B. It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the chief of police to operate any vehicle so equipped.

SECTION 11-1-6 PARKS - ALCOHOL USE

Definitions: "Public Recreation Area" shall include a Town park, district or regional parks, riverfront parks, or areas so designated by the Town Council of the Town Hall complex, such as the adjoining sports fields, parking lots, or gymnasium, or other Town property.

Prohibition on Alcohol Use. It is unlawful for any person to consume, possess, give, or sell any alcoholic beverage within the boundaries of any public recreation area or on Town-Owned property within the Town limits, or in a public thoroughfare, except that persons may sell, purchase, or consume beer and/or wine by permit from the Town. The Council may approve no more than three (3) alcohol permits on town property in a fiscal year. at the following events only: Fort Verde Days (beer only), Cornfestival (beer only), and Pecan, Wine & Antique Festival (wine only). A special event license from the Arizona Department of Liquor Control is required and procedures are outlined in the Town of Tusayan Procedures and Operations Guide, Special Event Permitting Procedures and Handbook. The permit will specify the area and other conditions of use.

- A. Proof of alcohol training from Arizona Department of Liquor Control is required as a condition of the permit.
- B. Signs will be posting stating that no one appearing to be intoxicated will be served
- C. "LAST CALL" promotions are strictly prohibited.

Permit Procedures. The Town Manager will establish permit procedures under this ordinance, except that the Town Council may by motion or resolution determine which events sponsored by the Town will have beer sold under a Town special event license.

Violations and Penalties. Violation of this [section] ordinance is declared to be a Class 1 misdemeanor, punishable by fines up to \$2,500 and 6 months in jail or to the limits as may be amended by State law.

Posting. Signs shall be posted in all public recreation areas warning the public of the provisions of this ordinance.

SECTION 11-1-7 SIGNS AND BANNERS

It is unlawful for any person to place any banner or sign upon any Town property, streetlight pole, traffic signal pole, or utility pole within the Town without first obtaining authorization from the manager or his or her designee.

SECTION 11-1-8 UNSAFE BUILDINGS OR STRUCTURES

It is unlawful for any person to maintain or allow any building or structure so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

SECTION 11-1-9 DISCHARGE OF AIR OR SPRING WEAPONS

It is unlawful for any person to recklessly discharge any spring or air gun within the Town.

SECTION 11-1-10 911 EMERGENCY TELEPHONE NUMBER SYSTEM

- A. Definitions. In this section, unless the context otherwise requires:
 - 1. "Emergency" means any situation in which human life or property is in jeopardy and the prompt summoning of aid is essential.
 - 2. "911" means the Town 911 emergency telephone number system.
- B. Prohibition. It is unlawful for any person to intentionally and willfully dial the 911 emergency telephone number and falsely report a nonexistent emergency or to dial the 911 emergency telephone numbers with the intention to harass, annoy, or otherwise interfere with the intended operation of the 911 emergency telephone number system.

SECTION 11-1-11 PROHIBITION ON ENGINE BRAKING.

No vehicle, commercial or personal, shall use engine braking, compression braking, or 'jake brakes', within the Town limits, if the operation causes unreasonable noise. Use of engine braking in a residential area shall be presumed to be a public nuisance.

1. **Exceptions:** This shall not apply to traffic on Interstate 17, or any time use of engine braking is necessary in a safety emergency.
2. **Violations:** The driver or operator of a vehicle may be cited under this ordinance. Violations of any provision herein are a Class 3 Misdemeanor on a first offense for the vehicle or driver, and Class 2 Misdemeanor for any subsequent offense.

SECTION 11-1-12 FALSE ALARMS

A. It shall be unlawful to allow or cause a false alarm within the Town.

B. In this article, unless the content otherwise requires:

1. "Alarm" means any mechanical or electrical device or assembly of equipment designed or arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the police are expected to respond, or designed or arranged to signal the occurrence of a fire or excessive smoke requiring urgent attention and to which a fire department is expected to respond.
2. "Alarm Company" means any firm, person, partnership, corporation, or entity which has servicing, maintenance, or monitoring duties or responsibilities under the terms of any agreement or arrangement with any alarm user within the corporate limits of the town.
3. "Alarm user" means any person, firm, corporation, or entity of any kind in control of any building, premises, structure or facility in which or upon which an alarm is maintained.
4. "False alarm" means an alarm signal to which police or fire department personnel respond with any emergency personnel or equipment when a situation requiring a response by the police or fire department does not in fact exist, and which signal is caused by the inadvertence, negligence, or intentional act or omission of an alarm company or alarm user or a malfunction of the alarm.

C. The following shall not be considered false alarms:

1. Alarms caused by the testing, repair, or malfunction of telephone equipment or lines.
2. Alarms caused by an act of God, including earthquakes, floods, windstorms, thunder or lightning.
3. Alarms caused by an attempted illegal entry of which there is visible evidence.
4. Alarms caused by the testing, repair or malfunction of electrical utility equipment or lines.

D. Any violation of section 11-1-12 shall have the following penalties:

1. A civil sanction in an amount of not more than \$250.00 may be assessed against an alarm user for each false alarm which occurs in any building, premises, structure, or facility owned or controlled by the alarm user;
2. A civil sanction in an amount of not more than \$250.00 may be assessed against the responsible alarm company for each false alarm which occurs in the event that a false alarm was occasioned due to the manner of installation of the alarm by the responsible alarm company;

A civil sanction in an amount of not more than \$250.00 may be assessed against the responsible alarm company for each false alarm which is occasioned by the failure of the responsible alarm company to properly service, maintain or monitor any alarm within the town.

ARTICLE 11-1-13

SALE OF PSEUDO-EPHEDRINE PRODUCTS

Sale of pseudo-ephedrine products

1. Definitions: For purposes of this chapter, the following shall have the following meanings:
 - a. "Pharmacist" means a person licensed by the state in the art, practice, or profession of preparing, preserving, compounding, and dispensing medical drugs.
 - b. "Licensed Pharmacy Technician" is a person licensed by the state to assist a pharmacist.
 - c. "Pseudo-ephedrine" is a drug commonly used in decongestants and can be illegally processed to make methamphetamine Ephedrine, norpseudoephedrine, and phenylpropanolamine shall be included in this definition as pseudo-ephedrine products.
 - d. "Proper Identification" shall mean a recognized government issued photo identification of purchaser including, but not limited to, a driver's license, identification card or passport.
2. Security of Pseudo-Ephedrine Products. Any establishment that pseudo-ephedrine products in a tablet form must hold such products in an area that is not accessible to the public and where such products are continually monitored to prevent theft or unauthorized or uncontrolled purchases
3. Sale by Pharmacist or Licensed Pharmacy Technician. It shall be required that any compound, mixture or preparation that contains detectable quantities of pseudo-ephedrine in a tablet form be sold by a pharmacist or licensed pharmacy technician.
4. Quantity that May be Sold. It shall be prohibited for a retailer selling more than a total of 9 grams in tablet form of ephedrine, pseudo-ephedrine, norpseudoephedrine or phenylpropanolamine to a person within a thirty (30) day period. Provided however, this limit shall not apply to any quantity of such tablet of ephedrine, pseudo-ephedrine, norpseudoephedrine or phenylpropanolamine dispensed pursuant to a valid prescription.
5. Purchaser identification Requirements. It shall be required that any person purchasing pseudo-ephedrine products in a tablet form present proper identification and sign a log that shows the date of the transaction, the name of the purchaser, and the amount of the compound requested.
6. Confidentiality of Identification Information. The purchaser log will be retained by retailer for a period of six (6) months, unless otherwise directed by law enforcement, and will be considered a confidential document that will only be available to the pharmacist, licensed pharmacy technician, law enforcement, or by order of a court.
7. Requirement to Report Suspicious Sale. The retailer and pharmacy employees will be required to report to the police department by telephone any attempt by a purchaser to purchase larger quantities than allowable by this Ordinance or any other suspicious activity or purchases that may be related to the manufacture or possession of illegal drugs.

ARTICLE 11-2

FIREWORKS

Section 11-2-1 Definitions

Section 11-2-2 Consumer fireworks prohibited; exceptions

Section 11-2-3 Sale of fireworks

Section 11-2-4 Posting of signs by persons engaged in the sale of fireworks; civil penalty

Section 11-2-5 Authority to enforce violations of this article; means of enforcement

Section 11-2-6 Liability for emergency responses related to use of fireworks; definitions

Section 11-2-7 Penalty

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All statutory references are to the statutes as they may be amended:

- A. **Consumer fireworks:** those fireworks defined by Arizona revised statutes section 36-1601.
- B. **Display fireworks:** those fireworks defined by Arizona revised statutes section 36-1601.
- C. **Fireworks:** any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation that is a consumer firework, display firework or permissible consumer firework as defined by Arizona revised statutes section 36-1601.
- D. **Novelty items:** federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow works, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona revised statutes section 36-1601.
- E. **Permissible consumer fireworks:** those fireworks as defined by Arizona revised statutes section 36-1601, that may be sold within the Town of Tusayan even where the use of those items has been prohibited.
- F. **Supervised public display:** a monitored performance of display fireworks open to the public and authorized by permit by the Tusayan fire department.

SECTION 11-2-2 CONSUMER FIREWORKS PROHIBITED; EXCEPTIONS

- A. The use, discharge, or ignition of consumer fireworks within the Town limits of the Town of Tusayan is prohibited.
- B. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- C. Permits may be granted by the Tusayan Fire Department for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Fire Department has authority to impose conditions on any permits granted.
- D. Failure to comply with any permit requirements issued by the Fire Department is a criminal offense constituting a class two misdemeanor.
- E. Fireworks may not be combined, altered or manipulated in any way outside of the intended use that, in the opinion of the fire department, increases the potential for fire damage or personal injury.

SECTION 11-2-3 SALE OF FIREWORKS

- A. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under **sixteen** years of age.
- B. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
- C. No person shall furnish permissible consumer fireworks to a person who is under **sixteen** years of age.
- D. No person who is under **sixteen** years of age shall possess permissible consumer fireworks.
- E. Permits and fees shall be required for the construction, erection, or operation of a business that sells consumer fireworks.

SECTION 11-2-4 POSTING OF SIGNS BY PERSONS ENGAGED IN
THE SALE OF FIREWORKS; CIVIL PENALTY

- A. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - 1. The use of fireworks, except novelty items, as defined by Town of Tusayan code, including permissible consumer fireworks, is prohibited.
 - 2. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of 16.
- B. Signs required under this section shall be placed at each cash register and in each area where consumer fireworks are displayed for sale.
- C. The Town Manager shall develop regulations concerning the size and color of the required signs.
- D. Any person engaged in the sale of consumer fireworks shall provide a written notice to each individual who purchases consumer fireworks, such notice shall inform the purchaser that the use, discharge, or ignition of consumer fireworks within the Town of Tusayan is prohibited. The notice shall also inform the purchaser of the key requirements and prohibitions contained in this ordinance. The Community Development Department shall develop regulations concerning the size and content of the required notice and develop a model notice.
- E. Any person engaged in the sale of consumer fireworks shall require each purchaser of consumer fireworks to sign a registry indicating the name, address and age of the purchaser.
- F. Failure to comply with subparts a, b, d and e of this section is a criminal offense constituting a class two misdemeanor.

SECTION 11-2-5 AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE;
MEANS OF ENFORCEMENT

- A. The Town Attorney may issue criminal complaints to enforce this article.
- B. Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.
- C. The Town Building Official may issue fire code or permit violations to enforce this article.

SECTION 11-2-6 LIABILITY FOR EMERGENCY RESPONSES RELATED TO
THE USE OF FIREWORKS; DEFINITIONS

- A. A person who uses, discharges or ignites permissible consumer fireworks, or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.
- B. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to Subpart A of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall be the amount set forth in existing Town ordinances for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.
- C. For the purposes of this section:

1. "Expenses of an Emergency Response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.
2. "Reasonable Costs" includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.

B SECTION 11-2-7 PENALTY

The penalty for violating any prohibition or requirement imposed by the article is a class two misdemeanor unless another penalty is specifically provided for.